

# Plaintiff's Exhibit A

Declaration of Daniel J. Horwitz

Dated January 16, 2009

---

Erica Welker

v.

Law Office of Daniel J. Horwitz

Case No: 08cv2259 IEG (WMc)

1 John A. Mayers, Esq. (CSB #149149)  
MULVANEY, KAHAN & BARRY  
2 401 West A Street, 17th Floor  
San Diego, CA 92101-7994  
3 Telephone: 619 238-1010  
Facsimile: 619 238-1981  
4 Email: [jmayers@mkblaw.com](mailto:jmayers@mkblaw.com)

5 Attorneys for Defendant LAW OFFICE OF  
DANIEL J. HORWITZ  
6

7  
8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA DISTRICT OF CALIFORNIA

10 ERICA WELKER,

11 Plaintiff,

12 v.

13 LAW OFFICE OF DANIEL J.  
14 HORWITZ,

15 Defendant.

CASE NO. 08-CV-2259-MMA-WMc

DECLARATION OF DANIEL J.  
HORWITZ IN SUPPORT OF MOTION  
TO DISMISS COMPLAINT PURSUANT  
TO FRCP 12 (B) (6) AND CALIFORNIA  
ANTI-SLAPP LEGISLATION; REQUEST  
FOR FEES AND COSTS

Date: March 20, 2009  
Time: 2:30 p.m.  
Courtroom: 5

17 I, DANIEL J. HORWITZ, declare as follows:

18 1. I am an individual, over the age of eighteen years and the principal of  
19 the Defendant in this action. I am also a duly licensed and practicing California  
20 attorney. I have personal knowledge of the foregoing facts, and, if called as a  
21 witness, I could and would competently testify thereto.

22 2. Attached hereto as Exhibit "A" and incorporated herein by reference are  
23 true and correct copies of the Validation Notices I prepared, and caused to be served  
24 on SHANNON CURIEL and ERICA WELKER.

25 3. The letters comprising Exhibit "A" were served only on the intended  
26 recipients. Each was served along with the appropriate Summons and Complaint  
27 and the Notice of Case Assignment related to the State Court litigation I commenced  
28 against each.

1 4. Neither of the letters comprising Exhibit "A" was ever mailed.

2 5. I have had no contact with either SHANNON CURIEL or ERICA  
3 WELKER other than causing a process server to deliver the respective letters  
4 comprising Exhibit "A."

5 6. The "principal amount due" reflected in the validation notices  
6 comprising Exhibit "A" is actually the amount that the client would accept as payment  
7 in full if paid within thirty days of service of the complaint.

8 I declare under penalty of perjury under the laws of the State of California that  
9 the foregoing is true and correct.

10 DATED: 1/16/09, at San Diego California.

11  
12   
13 Daniel J. Horwitz

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
LAW OFFICES  
MULVANEY, KAHAN & BARRY  
A LIMITED LIABILITY PARTNERSHIP  
SEVENTEENTH FLOOR  
401 WEST A STREET  
SAN DIEGO CALIFORNIA 92101-7944  
TELEPHONE 619 238-1010  
FACSIMILE 619 238-1001

LAW OFFICE OF DANIEL J. HORWITZ  
110 West C Street, Suite 913  
San Diego, California 92101  
Tel. (619) 236-1149  
Fax: (619) 236-0793

VALIDATION NOTICE

October 2, 2008

TO: ERICA WELKER  
6064 Paseo Pradera  
Carlsbad, CA 92009

RE: Creditor: AMBULATORY CARE SURGERY CENTER  
Principal amount of claim: \$23,508.61

AMBULATORY CARE SURGERY CENTER has retained me to collect your outstanding balance, interest at the legal rate, and reimbursement of court costs related to your past-due account for medical services rendered.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume the debt is valid.

If you notify this office within 30 days after receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt or obtain a copy of the judgment and mail you a copy of such judgment or verification.

If within 30 days of your receipt of this notice you request that this office provide you with the name and address of the original creditor, if there is a different creditor from the named creditor above, this information will be provided, or we will confirm that the named creditor above is the original creditor.

All statements set forth herein pertain to your relationship with me as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must answer the complaint. The summons is a command from the court, not from me, and you must follow its instructions even if you dispute the validity or amount of the debt. The advice in this letter also does not affect my relations with the court. As a lawyer, I may file papers in the suit according to the court's rules and the judge's instructions.

This office is acting as a debt collector. Any information obtained will be used for that purpose.

Daniel J. Horwitz, Esq.  
Attorney at Law

LAW OFFICE OF DANIEL J. HORWITZ  
110 West C Street, Suite 913  
San Diego, California 92101  
Tel. (619) 236-1149  
Fax: (619) 236-0793

VALIDATION NOTICE

October 3, 2008

TO: SHANNON CURIEL  
1538 Willowspring Drive  
Encinitas, CA 92024

RE: Creditor: AMBULATORY CARE SURGERY CENTER  
Principal amount of claim: \$7,593.17

AMBULATORY CARE SURGERY CENTER has retained me to collect your outstanding balance, interest at the legal rate, and reimbursement of court costs and attorney's fees related to your past-due account for medical services rendered.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume the debt is valid.

If you notify this office within 30 days after receiving this notice that this debt, or any portion thereof, is disputed, this office will obtain verification of the debt or obtain a copy of the judgment and mail you a copy of such judgment or verification.

If within 30 days of your receipt of this notice you request that this office provide you with the name and address of the original creditor, if there is a different creditor from the named creditor above, this information will be provided, or we will confirm that the named creditor above is the original creditor.

All statements set forth herein pertain to your relationship with me as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must answer the complaint. The summons is a command from the court, not from me, and you must follow its instructions even if you dispute the validity or amount of the debt. The advice in this letter also does not affect my relations with the court. As a lawyer, I may file papers in the suit according to the court's rules and the judge's instructions.

This office is acting as a debt collector. Any information obtained will be used for that purpose.

Daniel J. Horwitz, Esq.  
Attorney at Law